

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:) Mail Stop APPEAL BRIEF - PATENTS
)
Lisheng HUANG) Group Art Unit: 2616
)
Application No.: 08/575,433) Examiner: P. Tran
)
Filed: December 20, 1995)
)
For: HYBRID PACKET-SWITCHED)
AND CIRCUIT-SWITCHED)
TELEPHONY SYSTEM)

REPLY BRIEF UNDER 37 CFR § 41.41

U.S. Patent and Trademark Office
Customer Window, Mail Stop Appeal Brief-Patents
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This Reply Brief is submitted in response to the Examiner's Answer, mailed December 14, 2006.

In the "Response to Arguments" section of the Examiner's Answer (pages 12-14), the Examiner addresses a few of the arguments presented in Appellant's Appeal Brief. Appellant respectfully requests that the Examiner's failure to address arguments presented by Appellant be taken as an admission that the Examiner found those arguments persuasive.

In response to the "Response to Arguments" section of the Examiner's Answer, Appellant submits the following remarks.

1. Claims 1, 11, 22, 29, 34, and 38.

In section 1 of the "Response to Arguments" section that addresses Appellant's arguments regarding claim 1 that Turock does not disclose or suggest a terminating gateway computer that accepts out of band signaling and converts the digital data packets from the originating gateway computer into terminating signals, the Examiner alleges:

Out-of-band signalling is telecommunication signalling that is done on a channel different from that for carrying voice or data. In computer network, out-of-band is a separate stream of data from the main data stream.

Appellant respectfully disagrees with the Examiner's new definition of "out-of-band signaling."

At the outset, Appellant notes that the Examiner provided a dictionary definition for the term "out-of-band signaling" in the Office Action, dated April 27, 2006 (page 12). Appellant acknowledged that that definition was consistent with Appellant's use of the term (Appeal Brief, dated September 22, 2006, page 13. Now, in the Examiner's Answer, the Examiner provides a definition that is inconsistent with the agreed-upon, accepted definition. Contrary to the Examiner's allegation, Appellant submits that out-of-band signaling is not defined as a separate stream of data from a main data stream. The Examiner has not provided any evidence to support this new definition of "out-of-band signaling." Appellant submits that the Examiner has provided this new definition in the eleventh hour of prosecution in an attempt to convince the

Honorable Board that Turock somehow discloses the above feature of claim 1. Appellant submits that the Examiner's new definition is not a reasonable definition of "out-of-band signaling."

The Examiner further alleges:

In this case, when a signalling between a Specialized Switch (block 206 in Fig. 2 of Turock) and Specialized Switch (block 216 in Fig. 2 of Turock), a channel is established only between these nodes. Thus, the channel for signalling is the virtual channel to containing the addresses of the source node, which is node 206, and the destination node, which is node 216. Once the signalling stage is completed and voice path is established between caller (block 202 in Fig. 2 of Turock) and callee (block 204 in Fig. 2 of Turock). The full duplex channel now is the virtual channel containing the source and destination addresses of caller 202, and the callee 204. This channel is totally different from the channel established between nodes 206 and 216 which does not involve any nodes preceding node 206 nor any node succeeding node. Since, the two channels (connections) are different, the signalling done in Turock is indeed out of band signalling.

Appellant respectfully disagrees with the Examiner's allegations.

Appellant submits that Turock does not disclose or suggest that a full duplex channel is established between nodes 206 and 216 that is totally different from a channel used to establish the full duplex channel, as the Examiner alleges. Moreover, the Examiner has not pointed to any section of Turock that supports the Examiner's allegations. Appellant submits that Turock does not disclose or suggest a terminating gateway computer that accepts out-of-band signaling and converts the digital data packets from the originating gateway computer into terminating signals, as recited in claim 1.

For at least these additional reasons, Appellant respectfully requests that the rejection of claim 1 based on Turock be reversed.

Appellant notes that the Examiner references claim 28 with respect to the above argument. Appellant submits that claim 28 recites, however, an originating gateway computer that includes a component for providing out of band signaling between the originating gateway and the originating circuit-switched network. The Examiner's allegations above are directed to Turock's alleged disclosure of out-of-band signaling between a first node and a second node through a packet-switched network. The Examiner's allegations regarding claim 1 do not address the arguments presented with respect to claim 28.

2. Claims 5, 10, 15, and 20.

In section 2 of the "Response to Arguments" section that addresses Appellant's arguments regarding claim 5 that Turock does not disclose or suggest that the terminating gateway computer further comprises a component for rearranging the stored digital packets to maintain a proper packet order, the Examiner alleges:

Turock teaches the validation of the sequence number to insure that the messages have arrived in proper order, which is considering as rearrange the packets to maintain the proper order. They are ways to insure the packets arriving in a proper order in voice communication.

Appellant respectfully disagrees.

As set forth in Appellant's Appeal Brief, step 914 in Fig. 10 of Turock discloses that the header information, including sequence number, is validated to ensure that messages have

arrived in proper order. Turock does not disclose or suggest, however, a component for rearranging the stored digital packets to maintain a proper packet order. In fact, Turock does not disclose what happens when messages arrive out of order. The Examiner does not point to any section of Turock that discloses this feature.

For at least these additional reasons, Appellant respectfully requests that the rejection of claim 5 based on Turock be reversed.

3. Claim 17.

In section 3 of the "Response to Arguments" section that addresses Appellant's arguments regarding claim 17 that Turock does not disclose or suggest that the routing component provides the routing in response to a typed input from a computer keyboard, the Examiner alleges:

The limitation of claim 17 corresponding to Fig. 4 of Appellant and does not teach or suggest that multimedia personal computer corresponds to an originating gateway computer for providing digital packets corresponding to originating signals produced in response to voice input or a gateway computer that accepts out of band signalling. Turock teaches every limitation of claim 17 (Fig. 4 or Turock), which is the same as Fig. 4 of Appellant. See figures below.

Appellant respectfully disagrees.

Fig. 4 of Turock depicts telephone (202) to computer (252) communications via Internet 214 (col. 7, lines 36-44). Turock does not disclose or suggest that multimedia personal computer 252 corresponds to an originating gateway computer for providing digital packets corresponding to originating signals produced in response to voice input or a gateway computer that accepts out of band signaling and converts the digital packets into terminating signals, as required by claim

17. Thus, Turock's multimedia personal computer 252 cannot reasonably be construed as an originating gateway computer or a gateway computer that includes a routing component that provides the routing in response to a typed input from a computer keyboard, as required by claim 17.

For at least these additional reasons, Appellant respectfully requests that the rejection of claim 17 based on Turock be reversed.

4. Claims 26 and 32.

In section 4 of the "Response to Arguments" section that addresses Appellant's arguments regarding claim 26 that Turock does not disclose or suggest that at least one of the routing components comprises an address resolution logic and a network routing database implemented with a central processing unit, the Examiner alleges:

Turock teaches the address resolution logic and the network routing database implemented with a central processing unit (see col. 12, lines 62-67 of Turock).

Appellant respectfully disagrees with the Examiner's interpretation of Turock.

At col. 12, lines 62-67, Turock discloses:

At step 622, the ICM at the local ITS Node passes the call setup data and requests the local CIM to connect through the Internet to the CAM at the remote ITS node in order to establish a connection through the Internet to a counterpart ICM at the Remote ITS Node. Step 622 involves first identifying the Internet address of the
....

This section of Turock discloses requesting a local Connection Initiation Module (CIM) to establish a connection through the Internet to a counterpart Internet Call Manager (ICM). This

section of Turock does not disclose or suggest a routing component that comprises an address resolution logic and a network routing database implemented with a central processing unit, as required by claim 26.

For at least these additional reasons, Appellant respectfully requests that the rejection of claim 26 based on Turock be reversed.

5. Claim 36.

In section 5 of the "Response to Arguments" section that addresses Appellant's arguments regarding claim 36 that Turock does not disclose or suggest causing the terminating gateway computer to transmit to the originating gateway computer, via the packet-switched network, a state change caused by the callee's answering the call, the Examiner alleges:

Turock teaches a communication link is established when the called's answering the call, therefore the state change the cause the communication links between gateways.

Appellant respectfully submits that the Examiner's allegation does not address the above feature of claim 36.

Appellant's claim 36 does not recite that a state change is the cause of a communication link between gateways, as the Examiner appears to allege. Instead, Appellant's claim 36 specifically recites causing the terminating gateway computer to transmit to the originating gateway computer, via the packet-switched network, a state change caused by the callee's answering the call. The Examiner's allegations do not address this feature of claim 36.

For at least these additional reasons, Appellant respectfully requests that the rejection of claim 36 based on Turock be reversed.

CONCLUSION

In view of the foregoing arguments, Appellant respectfully solicits the Honorable Board to reverse the outstanding rejections of claims 1, 4-7, 9-11, 14-17, 19, 20, 22, and 26-39.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY SNYDER, L.L.P.

By: /John E. Harrity/
John E. Harrity
Registration No. 43,367

Date: February 14, 2007

11350 Random Hills Road
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 25537